122 FERC ¶ 61,302
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Southern Natural Gas Company   Docket No. RP07-690-000

ORDER ON COMPLIANCE

(Issued March 31, 2008)

1. On September 12, 2007, Southern Natural Gas Company (Southern) filed revised tariff sheets[1] to modify sections 10.2 and 10.3 of the General Terms and Conditions (GT&C) of its tariff and its *pro forma* firm service agreement.[2] On November 16, 2007, Southern filed a response (November 16 Compliance Filing) providing further information and explanation supporting its proposed revision to section 10.3 of its GT&C to comply with the Commission's October 31, 2007 Order, which accepted and suspended its September 12, 2007 filing, subject to refund and conditions and further review (October 31 Order).[3] The Commission conditionally accepts Southern's November 16 Compliance Filing as in satisfactory compliance with the October 31 Order and the revised tariff sheets are permitted to become effective April 1, 2008, subject to the conditions set forth below.

[1] Fifth Revised Sheet No. 123, Ninth Revised Sheet No. 177, Fourth Revised Sheet No. 218, Third Revised Sheet No. 222, and Second Revised Sheet No. 300 to its FERC Gas Tariff, Seventh Revised Volume No. l.

[2] Southern also proposed changes to GT&C section 22.6(c)(14) concerning a releasing shipper's offer, and to its transportation request form in Appendix A of its GT&C.

[3] *Southern Natural Gas Co.*, 121 FERC ¶ 61,118 (2007).

<u>Background</u>

2. Section 10.1 of the GT&C of Southern's tariff provides that, except as provided in section 10.2, Southern will deliver gas at rates as constant as operationally feasible throughout the day. Section 10.2 of the GT&C of Southern's tariff allows shippers to take gas at any primary delivery point at an hourly rate of flow necessary to serve their firm markets, provided that Southern is not obligated to deliver at an hourly rate in excess of 6 percent the shipper's firm maximum daily delivery quantity (MDDQ) at such primary delivery point. This percentage allows shippers to take gas at their primary points up to their daily contractual MDDQ over a sixteen-hour day. Section 10.3 of the GT&C of Southern's tariff provides that, in the event it determines that a shipper's takes at an hourly rate in excess of 6 percent of the firm MDDQ for a primary delivery point threaten the integrity of its system, Southern can order the shipper to reduce its takes at that point to an hourly rate of not greater than 6 percent of the shipper's firm MDDQ at that delivery point. The section 10.1 requirement of uniform hourly takes (about 4.2 percent per hour) applies to all service at secondary points.

3. Southern proposed several changes to sections 10.2 and 10.3 of its GT&C and related changes to other tariff provisions. Southern proposed to modify section 10.2 to allow Southern and a shipper to agree mutually to an hourly flow rate of less than 6 percent and related changes to certain tariff provisions.[4] Southern also proposed to revise section 10.3 of the GT&C of its tariff such that, in the event it determines that a shipper's takes at an hourly rate in excess of 6 percent of the MDDQ for a primary delivery point threaten the integrity of its system, Southern can order the shipper to reduce its takes at that point to an hourly rate equal to 6 percent of the scheduled volumes. Southern's specific proposed changes to section 10.3 are shown below in strike-out and italics:

> If COMPANY determines in its reasonable judgment that SHIPPER'S takes-of gas in excess of an hourly rate of 6% of the firm Maximum Daily Delivery Quantity for a Delivery

[4] Southern proposed to revise the following tariff provisions: its *pro forma* firm transportation service agreement to include a blank to be filled in for the agreed-upon hourly entitlement; the releasing shipper's notice in GT&C section 22.6(c)(22) to require that the hourly flow requirement for each delivery point be included; and its transportation request form and attachment B to that form in Appendix A of its GT&C to include hourly flow entitlement.

> Point threaten the integrity of its pipeline system, including the ability to deliver to any other SHIPPER its Daily Entitlement, COMPANY shall give SHIPPER four (4) hours' prior notice to reduce its takes of gas at such Delivery Point to an hourly rate ~~not greater than~~ *equal to* 6% of the *scheduled quantities within SHIPPER's* firm Maximum Daily Delivery Quantity for such Delivery Point*; provided, however, such takes shall not exceed SHIPPER's hourly flow rate entitlement at such Delivery Point as specified on Exhibit "B" to SHIPPER's Service Agreement*.[5]

4. The East Tennessee Group (ETG) and Calhoun Power Company I, LLC (Calhoun) filed protests, and Southern filed an answer to the protests.

<u>The October 31, 2007 Order</u>

5. In the October 31 Order, the Commission accepted and suspended the revised tariff sheets to become effective the earlier of a date established by a subsequent order or April 1, 2008, subject to refund and conditions and further review. The Commission accepted Southern's proposed change to section 10.2 of its GT&C to permit it to negotiate hourly flow rates less than 6 percent of the shipper's MDDQ at the delivery point and the related changes in the other parts of Southern's tariff, as generally consistent with Commission policy. However, the Commission could not find that the proposed change in section 10.3 was just and reasonable on the existing record, and directed Southern to provide further information and explanations with adequate support necessary to fully address the issues raised by its proposal to revise section 10.3. The parties were permitted to file reply comments.

6. Existing section 10.3 authorizes Southern to limit a shipper's hourly flow flexibility at its primary point based upon a finding that the shipper's takes of gas in excess of 6 percent of its daily MDDQ at that point threaten system integrity, and, consistent with that finding, permits Southern to limit the shipper's hourly flows to no more than 6 percent of its daily MDDQ. Southern only proposed to modify the remedy it can impose once it finds that takes in excess of 6 percent of MDDQ threaten system integrity. Instead of the previous remedy of limiting the shipper's takes at primary points to no more than 6 percent of daily MDDQ, revised section 10.3 would permit Southern to limit the shipper's takes at primary points to no more than 6 percent of the amount the shipper has scheduled at its primary point. ETG and Calhoun protested the proposal

[5] Fifth Revised Sheet No. 123.

arguing that limiting their hourly takes at primary points to 6 percent of their scheduled amounts would reduce their existing hourly take flexibility without justification.

7. The Commission stated that Southern's proposal appeared to result in a mismatch between the finding it must make in order to limit a shipper's hourly flow flexibility and the remedy it may impose, and it is not clear why a finding that hourly takes in excess of 6 percent of MDDQ threaten system integrity should justify Southern limiting hourly takes to 6 percent of scheduled service, a lower level when a shipper has not scheduled its full MDDQ. The Commission further stated that, as sections 10.1 through 10.3 of Southern's tariff are currently structured, Southern appears to permit a shipper hourly flexibility to take up to 6 percent of its daily MDDQ at a primary point on any day, regardless of how much service it has scheduled for that day, and this effectively permits a shipper greater hourly flexibility in its takes of scheduled amounts on days when it has scheduled less than its full MDDQ. The Commission directed that Southern, in its compliance filing, should explain whether its system can, as an operational matter, handle greater variability in hourly gas flows at lesser scheduled amounts, as its current tariff appears to presume, and, if so, why any limit tied to scheduled amounts should be permitted.

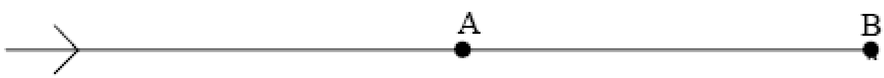
November 16 Compliance Filing

8. Southern contends that sections 10.2 and 10.3 are not contradictory since section 10.2 defines a shipper's maximum hourly rights at primary points and the reference to MDDQ is meant as a cap or maximum and section 10.3 further explains how such limitations would work. Southern asserts that, in the event system integrity is being threatened by excess hourly takes on the system, it would declare an Operational Flow Order (OFO)based on the operating conditions occurring on the system at that time, and the decision to issue a Type 2 OFO (hourly flow rate restriction)[6] would have to be based on the flow patterns and deliveries occurring at that time. Southern further asserts that, if an OFO is in place due to hourly takes in excess of 6 percent of MDDQ, its ability to limit hourly flows at primary points to 6 percent of scheduled volumes would allow for scheduled amounts at secondary points to continue flow at a uniform hourly rate. Southern contends that, if it could only limit hourly takes at primary points to 6 percent of MDDQ as suggested by the protestors, it is possible that no secondary flow would be scheduled because Southern would have to reserve pipeline capacity in order to permit hourly flows of 6 percent of MDDQ for the primary delivery points regardless of what volumes were scheduled to the primary points on such day.

[6] Section 41 of Southern's GT&C provides that the hourly market demand exceeds capacity provisions of section 10.3 constitute a Type 2 OFO or critical period.

9. Southern further contends that the consequences of using the protestors' interpretation are that, even if a firm shipper did not require its full hourly volume at its primary point, Southern would be required to hold this additional capacity and unnecessarily inhibit the ability to maximize the pipeline's throughput and serve secondary markets. Southern argues that this practice would be contradictory to previous Commission rulings in Order No. 637[7] and Order No. 698.[8] Southern presents examples to support its proposal which provide a comparison of the service that can be scheduled if the hourly flow limit at primary points is tied to 6 percent of a shipper's MDDQ at that point versus being tied to 6 percent of scheduled volumes at the point.[9]

10. For example, Southern presents the following generic example:



11. Southern assumes that point A is the firm primary point for an individual shipper with a MDDQ of 50,000 Mcf/d, and point B is a secondary point for that same shipper downstream on that line segment with no MDDQ at that point. The daily capacity of the line segment is 50,000 Mcf/d and 3,000 Mcf/Hr representing 6 percent of the 50,000 Mcf/d daily capacity. Southern further assumes that the shipper nominates 26,000 Mcf/d to its primary point A and 24,000 Mcf/d to secondary point B.

12. Southern asserts that, if protestors' position were adopted, it could only limit hourly flows at point A to 6 percent of the shipper's 50,000 Mcf/d MDDQ at that point, or 3,000 Mcf/Hr. Therefore, it would be unable to schedule any of the nomination at point B, since the shipper would have the ability to use the full 3,000 Mcf/d hourly capacity of the line at point A. However, Southern asserts that, under its proposal to limit

[7] *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091 (Order No. 637), *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom*. *Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

[8] *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 698, FERC Stats. & Regs. ¶ 31,251 (2007) (Order No. 698).

[9] If a shipper has nominated all of its MDDQ at its primary point, then it has met the maximum entitlement in either scenario.

hourly flow rates at primary points to 6 percent of the scheduled quantity, the shipper's hourly flow firm entitlement at primary point A would be only 1,560 Mcf/Hr (6 percent of 26,000 Mcf/d) and its hourly flow entitlement at point B would be 1,000 Mcf/Hr (based on its ability to require uniform hourly flows at secondary points). Therefore, Southern states that, under its proposal, it would be able to schedule 100 percent of both nominations by the shipper. Southern contends that its tariff requires limitation of the secondary points prior to limiting any firm point during a critical period; therefore, in this example, under its proposal, the secondary point would be limited to uniform hourly flow and the firm point would actually be entitled to receive approximately 7.7 percent of its scheduled volume on an hourly basis.

13. Southern does not explain how it calculates the 7.7 percent figure. However, Southern appears to be stating that, in this example, it would allow the shipper to take up to 2,000 Mcf per hour at point A and 1,000 Mcf per hour at point B. That 2,000 Mcf/Hr figure represents 6 percent of the shipper's 50,000 Mcf/d MDDQ (3,000 Mcf), minus the 1,000 Mcf/Hr uniform hourly flows scheduled at point B. The 2,000 Mcf equals 7.7 percent of the 26,000 MDDQ scheduled at primary point A.

14. Southern asserts that its system is designed to serve all of its firm markets at hourly flows up to 6 percent of MDDQ, regardless of what has been scheduled. Southern further asserts that the firm flow model, however, does not take into account secondary deliveries. Southern contends that, during normal operating conditions, some firm markets may be flowing 6 percent or greater of their MDDQ regardless of what has been scheduled, in addition to the secondary market demand being met. Southern further contends that a limitation on hourly flow would be enforced only during an OFO with sufficient notice given for a shipper to increase nominations at their primary points to meet their hourly requirements if needed. Southern asserts that section 10.3 of its GT&C requires Southern to provide shippers with 4 hours prior notice prior to the Type 2 OFO notice going into effect which would allow shippers sufficient time to schedule increased volumes to their primary delivery points if they needed additional gas flow including up to 6 percent of their MDDQ per hour during such an OFO event. Southern argues that this practice prevents withholding capacity that could otherwise be utilized by secondary markets and allows the firm shippers to continue flowing any additional volume not required at their firm market to their secondary market(s), if applicable. Southern further argues that, if the protestor's interpretation of Southern's hourly obligations based on a shipper's MDDQ rather than what has been actually scheduled is applied, secondary markets may not be served since Southern's system is designed to serve only firm markets at 6 percent of MDDQ.

15. Southern asserts that it has not implemented the Type 2 OFO; however, if this were to occur it would be in the best interest of Southern's shippers for it to calculate

hourly entitlements based on scheduled volumes and not the MDDQ. Southern further asserts that, in the latest 12 months, 44 percent of the deliveries on Southern's pipeline system were to secondary delivery points which demonstrates that deliveries to secondary points remain a vital service to its customers during both normal and critical operations.

16. Southern argues that its system has historically provided shippers with their hourly flow rate requirements, and Southern proposes to continue to provide its shippers with the same highly valued service. Southern asserts that its proposed change to section 10.3 is a clarification of its existing limitation practices. Southern further asserts that such clarification will ensure that capacity is not unnecessarily withheld from secondary markets served on its system and that throughput is maximized based on customer requirements. Southern contends that any hourly flow limitation will be based on system conditions existing at the time of the limitation and not a theoretical flow model, and this will ensure that any limitation will not result in arbitrary and unnecessary restrictions. Southern further contends that there is no doubt that shippers have the right to flow all of their MDDQ at a primary point and obtain the maximum hourly right of 6 percent of MDDQ if they nominate their full MDDQ to their primary point, however, statistics show that shippers do utilize their rights to secondary points frequently. Southern argues that an unreasonable interpretation of Southern's hourly flow limitations would restrict firm shippers flexibility and unnecessarily harm service to secondary points on Southern's system.

Reply Comments

17. ETG argues that, while characterizing its proposal as a mere clarification, Southern has not shown that its existing tariff language is causing any real world problem that necessitates changing it. ETG asserts that the question is whether shippers should have the flexibility to have hourly surges which Southern can operationally handle up to 6 percent of their MDDQ even if they have not scheduled up to their full MDDQ on that day. ETG argues that while Southern suggests allowing such flexibility would force it to reserve capacity, this hourly flexibility has been the status quo on the Southern system and the reservation of capacity is a daily concept, not an hourly one. ETG further argues that a shipper should not have to use four hours notice to increase its scheduled volumes up to its MDDQ which Southern can operationally handle. ETG asserts that there is a no guarantee of available capacity and a high likelihood that a shipper would not be able to schedule such capacity because of the time involved and the inability to bump scheduled secondary capacity. ETG further asserts that even if the shipper did increase the scheduled volumes to the necessary level, this would amount to over-scheduling, bringing too much gas to the city gate, incurring large imbalances and reducing Southern's ability to schedule secondary service. Finally, ETG argues that, since Southern's system was designed to handle and can operationally handle surges up to 6

percent of the MDDQ and shippers need that flexibility to respond to unforeseen weather and demand peaks, a limit to scheduled amounts lower than MDDQ should not be permitted.

18. Calhoun argues that the Commission's analysis should end with Southern's explanation that its system can handle variability in hourly gas flows at primary points up to 6 percent of MDDQ, even when lesser amounts have been scheduled, because its system is "designed to serve all of its firm markets at 6 percent of MDDQ regardless of what has been scheduled." Calhoun asserts that this means Southern has not had a problem with scheduling its system under the current circumstances where Type 2 OFOs can only be called if a shipper's hourly takes in excess of 6 percent of its MDDQ threaten system integrity. Calhoun further asserts that, as the Commission pointed out, it is not clear why a finding that hourly takes in excess of 6 percent of MDDQ threaten system integrity should justify Southern limiting hourly takes to an even lower level. Calhoun further argues that Southern's claims regarding the secondary market relate solely to Southern's ability to schedule service, but the tariff modification relates to how Southern will curtail service in the event of a Type 2 OFO. Calhoun further asserts that for Southern to proceed with the OFO curtailment a shipper's hourly takes in excess of 6 percent of its MDDQ must threaten system integrity, which has not happened yet on its system.

19. Calhoun contends that, therefore, the proposed tariff change will neither change how Southern schedules its system, nor has Southern had a problem with scheduling both primary and secondary service based on the current system where shippers are entitled to up to 6 percent of their MDDQ in any hour. Calhoun further contends that most end users like local distribution companies, generators, and industrials, have peak hourly periods during a day, and Southern's proposal would allow it to force balance shippers that have not exceeded their daily scheduled volumes to take gas in 1/24 hourly increments with no justification for doing so. Finally, Calhoun asserts that the data provided by Southern constitutes merely hypothetical examples and does not reflect the reality of Southern's system flows. Calhoun further asserts that Southern has not provided a transient flow study showing actual data to demonstrate its concern with secondary deliveries. Calhoun argues that, consequently, the data provided by Southern is speculative and cannot be relied upon as a basis to change the current hourly flow flexibility in the event of an OFO curtailment.

Discussion

20. Southern's November 16 Compliance Filing is conditionally accepted as in satisfactory compliance with the October 31 Order. Further, we accept Southern's revised tariff sheets subject to conditions to become effective April 1, 2008.

21. Southern proposed to revise section 10.3, to provide that, in the event that it determines that a shipper's hourly takes in excess of 6 percent of its MDDQ at a primary delivery point threaten the integrity of its system, Southern can implement an OFO to reduce hourly takes to 6 percent of the scheduled volumes. Southern explains that the purpose of its proposal is to maximize the amount of secondary service it may provide when excess hourly flows at primary points threaten system integrity. Southern has adequately demonstrated that requiring it to permit a shipper to take hourly deliveries at its primary point up to 6 percent of its MDDQ at that point, regardless of the levels of service the shipper has scheduled at primary and secondary points, would unnecessarily restrict Southern's ability to schedule service at secondary points during critical periods. However, Southern's proposed tariff revision permitting it to reduce the shipper's hourly flexibility at primary points to 6 percent of scheduled volumes at those points would permit it to reduce hourly flexibility to a lower level than its explanation says is necessary. Southern has presented examples of how its proposal would be implemented during these critical periods. In those examples, Southern states, in effect, that, during a critical period a restriction of hourly flows at a shipper's primary delivery point would equal 6 percent of the MDDQ at that primary delivery point less its limited hourly flow at secondary points on the affected line segment. For instance, under its example, although 6 percent of the scheduled volume of 26,000 Mcf/d is 1,560 Mcf/Hr, Southern states that the shipper would be entitled to receive an hourly flow of 2,000 Mcf/Hr, i.e., approximately 7.7 percent of its scheduled volume at the primary point, after the secondary point is limited to a uniform hourly flow of 1,000 Mcf/Hr, so that the total combined hourly flow equals 3,000 Mcf/Hr. The Commission finds that such a limitation is reasonable in such critical periods. However, Southern's proposed tariff language does not reflect the limitation which its explanation seems to present. Therefore, Southern is directed, within thirty days of the date this order issues, to file revised tariff sheets removing its originally proposed language and substituting language expressly stating that the limitation to hourly flows at the shipper's primary delivery point in section 10.3 will equal 6 percent of the shipper's firm MDDQ at that point less its limited hourly flow at secondary points on the affected line segment.

22. The revised tariff language required by this order is consistent with Southern's statement that its system is designed to permit firm shippers to take hourly deliveries at their primary delivery points up to 6 percent of their MDDQ at those points. The revised tariff language required by this order gives Southern the ability during critical periods to limit a shipper's hourly takes to no more than 6 percent of its MDDQ, taking into account the uniform hourly flows under any secondary service scheduled by the shipper. At the same time, unlike Southern's proposal, the required revison avoids authorizing Southern to reduce the shipper's hourly flow flexibility at primary points below that necessary to account for scheduled secondary service. For instance, if the shipper in Southern's example, described at P 10-12, had scheduled 26,000 Mcf/d at primary point A, but no

service at any secondary point, Southern's proposal would permit it to limit the hourly takes to 6 percent of the scheduled amount (1,560 Mcf/Hr), despite the fact that Southern states that its system is designed to permit a shipper, in such circumstances, to take 6 percent of its MDDQ at that point, in this example 3,000 Mcf/Hr. Under the revised tariff language required by this order, Southern would have to permit the shipper to use its full hourly flexibility in such circumstances.

23. ETG and Calhoun generally argue that Southern's proposal improperly relies on a limitation related to 6 percent of scheduled volumes. However, under the tariff revision directed by the Commission consistent with Southern's explanation, the actual hourly flow entitlement will be based on 6 percent of the shipper's firm MDDQ at the primary delivery point less its limited hourly flow at secondary points on the affected line segment.

The Commission orders:

(A) Southern's revised tariff sheets conditionally accepted in the October 31 Order, are accepted to become effective April 1, 2008, subject to the conditions set forth in the body of this order and the Ordering Paragraphs below.

(B) Southern's November 16 Compliance Filing is accepted as in satisfactory compliance with the October 31 Order subject to the conditions set forth in this order.

(C) Southern is directed to submit revised tariff sheets consistent with the Commission's discussion in the body of this order within thirty days of the date this order issues.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.